

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:09CR3028
)	
v.)	
)	
CRAIG A. WORKMAN,)	REPORT AND RECOMMENDATION
)	
Defendant.)	
)	

The defendant has been charged with violating 26 U.S. C § 7203 by willfully failing to file federal tax returns for the 2001, 2002, 2003, and 2004 tax years. Filing No. 1. The defendant, appearing pro se, has filed a motion to dismiss the federal indictment for lack of subject matter and personal jurisdiction. Filing No. 12. The defendant claims Congress did not grant the federal district courts any authority to hear criminal complaints arising under Title 26 of the United States Code.

The signature block of defendant's motion, signed by the defendant, includes his Lincoln, Nebraska home address. Based on the information provided by the defendant to pretrial services, the defendant was born and has lived in Lincoln, Nebraska his entire life.

There is no merit to defendant's claim that a federal district court "lacks subject matter jurisdiction over the Title 26 offenses because the general jurisdiction granted to federal courts in 18 U.S.C. § 3231 extends only to offenses listed in Title 18 of the United States Code. Th[e] Court has repeatedly held that this argument is without merit." U.S. v. Schmitt, 784 F.2d 880, 882 (8th Cir. 1986). Pursuant to 18 U.S.C. § 3231, "[t]he district courts of the United States shall have original

jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States." The defendant is charged with violating 26 U.S.C. § 7203, a law of the United States.

"[T]here is no question that every person present in the United States is generally subject to the laws of the United States." U.S. v. Szilagyi, 1989 WL 68592, 3 (6th Cir. 1989). Nebraska is a state within the United States, and the defendant is a citizen of the United States. The defendant is and was at all relevant times, a resident of Nebraska, amenable to process, and properly served a summons following his indictment. This court has subject matter jurisdiction to preside over and adjudicate the federal tax evasion charges filed against the defendant, and personal jurisdiction over the defendant. U.S. v. Gilbertson, 131 F.3d 144, 1997 WL 758756, 1 (8th Cir. 1997); U.S. v. Watson, 1 F.3d 733, 734 (8th Cir. 1993); U.S. v. Gerads, 999 F.2d 1255, 1256 (8th Cir. 1993). See also, U.S. v. Blackstock, 245 Fed. Appx. 746, 750, 2007 WL 2309782, 3 (10th Cir. 2007); U.S. v. Ross, 1995 WL 218539, 1 (7th Cir. 1995); U.S. v. Pinkstaff, 1993 WL 347086, 1 (5th Cir. 1993); U.S. v. Wise, 1987 WL 36840, 1 (6th Cir. 1987).

IT THEREFORE HEREBY IS RECOMMENDED to the Honorable Richard G. Kopf, United States District Judge, that the defendant's motion to dismiss, filing no. 12, be denied in all respects.

The parties are notified that a failure to object to this recommendation in accordance with the local rules of practice may be held to be a waiver of any right to appeal the district judge's adoption of this recommendation.

DATED this 6th day of May, 2009.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge